IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 3787 of 2005

Between:

M.A. Jaleel, Conductor E. 89676, S/o M.A. Azia
R/o Anantsagar (V) & (P), Naryankhed (M) Medak District

..... PETITIONER

AND

1 The Divisional Manager, APSRTC., Medak Division,

Medak District
2 The Depot Manager, APSRTC., Narayankhed Bus Depot,

Medak District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issued an order, direction or Writ more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing the proceeding No. 02/62/(14)/94-NKD, dated 5-7-1994 as illegal, arbitrary and unjust and consequently set a side the proceedings No. 02/62(14)/94-NKD, dt 5-7-1994 issued by the 2nd Respondent and pass such further other order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court made the following :

ORDER:

The petitioner is working as a Conductor in the respondent-Corporation. He was issued a charge sheet on 23-06-1993 for having committed certain cash and ticket irregularities and after receiving the explanation of the petitioner, final orders were passed by the 2nd respondent on 05-07-1994 imposing the penalty of deferring annual increments with cumulative effect for two years. The petitioner questions the order on the ground that though the reduction of annual increment with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the Rules. Therefore, the order is illegal and it is liable to be set aside.

The learned counsel for the petitioner relied on the judgment of the Supreme Court in **"Kulwant Singh Gill Vs. State of Punjab"** wherein the Supreme Court held that since the punishment imposed on the petitioner therein is a major punishment, the order cannot be sustained without an enquiry. The petitioner, therefore, seeks to declare that the impugned order is illegal and is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of eight years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh Gill's** case (1 supra), I am of the view, having regard to the nature of misconduct that it would be appropriate if the punishment imposed on the petitioner

is treated as reduction of two annual increments without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the expiry of the two years period. But, he is entitled to get increment on notional calculation from the date of the next increment after the expiry of the two years period to which he is entitled, as he has been imposed penalty of reduction of two annual increments without cumulative effect.

The writ petition is accordingly disposed of with the above observations. No costs.

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02-03-2005

vs

To

1 The Divisional Manager, APSRTC., Medak Division,

Medak District

2 The Depot Manager, APSRTC., Narayankhed Bus Depot,

Medak District.

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